



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 20, 1996

Mr. Guy Henry
Attorney
Litigation Support Division
Texas Natural Resource
Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR96-1728

Dear Mr. Henry:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 100755.

The Texas Natural Resource Conservation Commission ("TNRCC") received requests for information pertaining to the North Texas Municipal Water District wastewater treatment plant. You assert that portions of the requested information are excepted from required public disclosure based on sections 552.101, 552.103, 552.107 and 552.111 of the Government Code.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance, you have

made the requisite showing that the requested information relates to litigation for purposes of section 552.103(a).¹ Accordingly, TNRCC may withhold from required public disclosure the requested information.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 100755

Enclosures: Submitted documents

cc: Ms. Jaccque Hilburn
The Garland News
613 State Street
Garland, Texas 75040
(w/o enclosures)

Mr. Robert H. Lloyd
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Austin, Texas 78701
(w/o enclosures)

¹We note that if the opposing party in the anticipated litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

²Having determined that the TNRCC may withhold the information based on section 552.103, we need not address the other exceptions you raise at this time.